UNITED STATES DISTRICT COURT 2 **DISTRICT OF NEVADA**

VIKKI COLEMAN,)	
Plaintiff, vs.)	Case No.: 2:10-cv-02137-GMN-VCF
MICHAEL J. ASTRUE, COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION,))	ORDER
Defendant.)	

Pending before the Court is the Report and Recommendation of United States Magistrate Judge Cam Ferenbach. (ECF No. 20.) Plaintiff Vikki Coleman filed an Objection (ECF No. 21). For the reasons discussed below, the Court will accept in full Judge Ferenbach's Report and Recommendation to the extent that it is not inconsistent with this Order.

I. **BACKGROUND**

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Plaintiff brings this action against Defendant Michael Astrue in his capacity as the Commissioner of the Social Security Administration, pursuant to section 205(g) of the amended Social Security Act, 42 U.S.C. § 405(g). (Compl., ECF No. 8.) Plaintiff seeks judicial review of a final decision of the Commissioner of the Social Security Administration denying her claims for Social Security Disability ("SSD") benefits and Supplemental Security Income ("SSI") benefits under Titles II and XVI of the Social Security Act, 42 U.S.C. § 416(i), 23, 1381-1382c. (*Id*.)

Plaintiff filed concurrent claims for SSD and SSI benefits on August 26, 2008, which were denied initially and upon reconsideration. (*Id.*) Plaintiff requested a hearing before an Administrative Law Judge ("ALJ"), which was held on January 7, 2010. (Id.) On March 17, 2010, the ALJ issued an unfavorable decision denying Plaintiff's claims for benefits. (*Id.*)

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Plaintiff timely requested Appeals Council review of the ALJ'S decision, which was denied on October 29, 2010. (*Id.*)

This action was referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and District of Nevada Local Rule IB 1-4. In his Report and Recommendation, Judge Ferenbach recommended that this Court enter an order granting the Motion to Affirm (ECF No. 18) and denying the Motion for Remand (ECF No. 16). (ECF No. 20.)

II. LEGAL STANDARD

A party may file specific written objections to the findings and recommendations of a United States Magistrate Judge made pursuant to Local Rule IB 1-4. 28 U.S.C. § 636(b)(1)(B); D. Nev. R. IB 3-2. Upon the filing of such objections, the Court must make a *de novo* determination of those portions of the Report to which objections are made. *Id.* The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1); D. Nev. IB 3-2(b).

III. <u>DISCUSSION</u>

This court may set aside the Social Security Administration Commissioner's denial of disability benefits only when the findings of the ALJ are based on legal error or are not supported by substantial evidence in the record as a whole. Social Security Act, Sections 216(i), 223, 42 U.S.C. §§ 416(i) and 423; *Bustamante v. Massanari*, 262 F.3d 949, 953 (9th Cir. 2001). "Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005) (internal quotation marks omitted). "Where evidence is susceptible to more than one rational interpretation, it is the ALJ's conclusion that must be upheld. *Id*.

Here, Judge Ferenbach found that substantial evidence supports the finding that the evidence submitted upon appeal of the ALJ's decision was properly considered, and that the ALJ properly assessed Plaintiff's credibility. (ECF No. 20.) Having reviewed Plaintiff's

objections de novo, the Court finds no basis on which to reject Judge Ferenbach's findings and recommendations. IV. **CONCLUSION** IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 20) be **ACCEPTED** in full, to the extent that it is not inconsistent with this Order. IT IS FURTHER ORDERED that the Motion to Affirm (ECF No. 18) is GRANTED. IT IS FURTHER ORDERED that the Motion for Remand (ECF No. 16) is **DENIED**. **DATED** this 7th day of November, 2013. United States District Judge